THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22392 and 17267 OF 2006

DATED11.09.2006

BETWEEN

M.Veerayya and others

… Petitioners

and

District Collector and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.22392 OF 2005 AND 17267 OF 2006

COMMON ORDER:

The writ petition filed by one D.Narayana Raju was listed before this Court on 21.08.2006. In this writ petition, the petitioner prayed to give effect to the proceedings, dated 17.10.1999, of the District Collector, East Godavari District, presumably issued in accordance with the guidelines contained in G.O.Ms.No.1217, Revenue Department, dated 25.06.1997 dealing with restoration and settlement of lanka lands, which were once eroded. At that stage, the relief sought by the petitioner was to direct the Mandal Revenue Officer (MRO) to handover possession of the lands in old survey No.71/1 admeasuring Acs.1.18 cents and B.S.No.72/1A/2 admeasuring Acs.2.75 cents situated at Ubalanka village, Ravulapalem Mandal, East Godavari District.

Learned Assistant Government Pleader for Revenue (General) brought to the notice of this Court that the proceedings of the District Collector to restore the said land to Narayana Raju could not be complied with due to pendency of the writ petition filed by Sri M.Veeraiah and fifteen (15) others, being W.P.No.22392 of 2005. Therefore, the writ petition was directed to be tagged on to the writ petition filed by Sri Veeraiah and others. When the matters came up on 04.09.2006, learned counsel for the petitioners in W.P.No.22392 of 2005 was not present in the Court, and therefore, the matters were adjourned. Today, this Court heard the learned counsel appearing in both the writ petitions as well as the learned Assistant Government Pleaders.

The brief fact of the matter is not much in dispute. The Government of Andhra Pradesh vide G.O.Ms.No.1217, dated 25.06.1997 ordered to restore lanka lands in Ubalanka village, which re-appeared in twentieth century. Such restoration was ordered either to the original occupants or legal heirs, provided the lands were classified as Zeroity lands, that those lands were properly regularized and if the D-Form pattas are already granted, they were duly cancelled

before restoring to original occupants. When D.Narayana Raju and others filed an application in 1999 seeking the benefit of G.O.Ms.No.1217, the District Collector issued proceedings bearing No.E1-17944/84, dated 17.10.1999, directing the MRO, Ravulapalem, to take action for restoring the lands duly following the procedure prescribed in the said proceedings. D.Narayana Raju was recognized as entitled for restoration of lands in survey No.71/1 and B.S.No.72/1A/2. However, when the same was not done, he filed W.P.No.17267 of 2006 seeking a writ of Mandamus to respondents 1 to 4 to restore possession of the lands.

The case of the petitioners in W.P.No.22392 of 2005 is that all of them with their ancestors were in possession of the lands in various survey numbers of Ubalanka village, that all of them were issued D-Form pattas in 1994 and put in possession of the lands, that they obtained pattadar pass books (PPB) from the MRO and that the respondents, namely, the District Collector and Mandal Revenue Officer, are threatening them with dispossession without due process of law. They, therefore, sought a direction to the respondents not to dispossess them without following principles of natural justice.

The MRO, Ravulapalem, filed counter affidavit in W.P.No.22392 of 2005. The case of the petitioners in both the writ petitions is admitted (be it noted no counter affidavit is filed in W.P.No.17267 of 2006). It is, however, stated that having regard to the revised orders of the District Collector, steps were initiated to cancel the D-Form pattas given to the petitioners, namely, Veeraiah and others, that all of them agreed to accept assignment of reduced extents of lands admeasuring Acs.0.25 cents each instead of Acs.0.50 cents each and that all of them also executed an agreement on 15.09.2005 to relinquish their rights in respect of lanka lands. It is also admitted that though proceedings were issued by the District Collector in favour of D.Narayana Raju (petitioner in W.P.No.17267 of 2006) and others, they could not occupy the lands due to pending Court cases and the assignment of the lands was given in favour of others. Reference is also made to W.P.Nos.6765 of 2000 and 3054 of 2005 filed by the petitioners in W.P.No.22392 of 2005. Adverting to the allegation that the assignees relinquishing their rights, it is stated as under.

> In reply to para 5, it is submitted that, since the lands in question are private lands and the land owners approached the Hon'ble High Court of A.P., to hand over the lands and cancel the existing pattas. According to the directions issued by the Hon'ble Court action has been initiated. The writ petitioners also attended before the Mandal Revenue Officer, Ravulapalem and agreed to relinquish their right over the private lands.

> In reply to para 6, it is submitted that, due process have been followed before canceling the D.Pattas issued to the petitioners. While issuing pattas the condition No.9A of the patta itself said that "if any land covered in the patta proved in future as private land and localized in favour of the private individuals, the lands will be resumed without paying any compensation and handed over to the land owner". However a meeting was conducted with the assignees in the Mandal Revenue Officer, Ravulapalem on 15.09.2005 and the assignees was explained about the outcome of the Judgment of the private land to the land owners. I am herewith enclosing the letter given by the lease holders stating that they are willing to leave the lands and handed over to the original pattadars.

Though the counter affidavit refers to the meeting convened by the MRO on 15.09.2005 and the alleged agreement executed by them, there is no specific denial that Veeraiah and others (petitioners in W.P.No.22392 of 2005) were in possession. If the same is a hurdle in implementing the revised orders of the District Collector, dated 17.10.1999, as rightly pointed out by the learned counsel for the petitioners, the MRO can as well issue notices again and evict them by following due process of law. Then only, it would be possible for the MRO to restore lanka lands to D.Narayana Raju. Further, even the District Collector seems to be aware of the situation. While directing the MRO to take necessary action for restoration of lands, the District Collector indicated the course of action to be followed by the MRO, which is as under.

(a) Collect the entire assessment due to the Government w.e.f. the date of relinquishment by the original pattadars from the claimants, the list of the claimants is furnished in the Annexure enclosed to this order, subject to satisfaction that the reformed lanka is exactly corresponding to the eroded lanks which the pattadars have relinquished and now the petitioners now claiming.

(b) Identify the land granted on lease, presuming the accreted lanka is Government poramboke which is the part of the reformed ryotwari lanks. If so, submit proposals for cancellation of such leases, as it is ryotwari (private) land or propose alternate lanka land if available.

(c) Take action to show the boundaries of the lanka lands only, claimed by the applicants as the Government is no way concerned with giving possession of the private lands and eviction of the occupants if any on the petitioners land.

(d) As the sale deeds produced by the claimants

are unregistered ones, the Mandal Revenue Officer, Ravulapalem is requested to take action as per Law for referring the matter to the Revenue Divisional Officer, Amalapuram for impounding deficit stamp duty if any on the unregistered sale deeds under Section 47(A) of Stamp Act.

(e) Before showing the boundary of the lands to the individuals, mentioned in Annexure, the Mandal Revenue Officer should satisfy himself that the lands are without any Court Litigation or not covered by any orders of the Court, as these orders will not stand in the way of any Court orders.

(f) These orders are liable for cancellation at any time without notice if any fraud or misrepresentation of facts or any irregularities are noticed at a later date in regard to the ownership and localisation of the extents claimed in this case.

The above guidelines issued by the District Collector, which are to be followed by MRO while restoring lands would also show that unless and until the petitioners in W.P.No.22392 of 2005 are evicted by following due process of law and the lands become free from any Court litigation, the original occupant or legal heir of such occupant cannot get back re-appeared lanka lands. This must be kept in mind by the MRO while implementing the orders of the District Collector issued in accordance with G.O.Ms.No.1217, dated 25.06.1997.

These two writ petitions are disposed of directing the Mandal Revenue Officer to issue notices to the petitioners in W.P.No.22392 of 2005, obtain their explanations before evicting them and then restore the land in survey Nos.71/1 and BS No.72/1A/2 at Ubalanka village to D.Narayana Raju (petitioner in W.P.No.17267 of 2006). This exercise may be completed within a period of six weeks from the date of receipt of copy of this order. No costs.

(V.V.S.RAO,J)

11.09.2006.
pln